

REMARKS

After entry of the present Amendment, claims 1-5, 8, 9, 11-15, 17, 18, and 20-28 are pending in the subject application. Claims 1 and 4 are currently amended to recite that the water-soluble polymer comprises sodium salt of an acrylic acid polymer. Support for this amendment to claims 1 and 4 can be found at least in paragraph [0023] of the subject application as published, i.e., U.S. Publ. Pat. Appln. No. 2008/0021125. Claims 1-4 are currently amended to recite that the water-soluble polymer is present in component (B¹) or (B²), respectively, in an amount of from 0.1 to 5% by weight. Notably, the Applicants previously amended this range to inadvertently recite “from 0.01 to 5% by weight,” and the instant amendment is merely to correct this inadvertent error. Support for this amendment to claims 1-4 can be found at least in paragraph [0022] of the subject application as published. Claims 2 and 3 are currently amended such that these claims are now in independent form without incorporating the subject matter of claim 1. Support for this amendment to claims 2 and 3 can be found at least in paragraphs [0009] and [0010] of the subject application as published, as well as original claims 1-3. Claims 5, 9, 15, and 18 are currently amended to recite that the sodium salt of an acrylic acid polymer is selected from the group consisting of sodium salt of polyacrylic acid, sodium salt of polymethacrylic acid, and sodium salt of polyacrylic acid/methacrylic acid, and combinations thereof. Claims 25 and 26 are new and also further define the sodium salt of an acrylic acid polymer. Support for this amendment to claims 5, 9, 15, and 18, as well as new claims 25 and 26, can be found at least in paragraph [0023] of the subject application as published. Claim 11 is currently amended such that this claim is now in independent form without incorporating the subject matter of claim 1. Support for this amendment to claim 11 can be found at least in

paragraphs [0008] and [0012] of the subject application as published, as well as original claims 1 and 11. Claim 20 is currently amended such that this claim is now in independent form without incorporating the subject matter of claim 4. Support for this amendment to claim 20 can be found at least in paragraphs [0011] and [0012] of the subject application as published, as well as original claims 4 and 20. Claim 26 is new and recites a method of producing a silicone rubber sponge emulsion composition. Support for new claim 26 can be found at least in paragraph [0011] of the subject application as published, as well as Working Example 8. Finally, claims 27 and 28 are new and recite that the water-soluble polymer may further comprise carboxymethyl cellulose. Support for new claims 27 and 28 can be found at least in paragraph [0023] of the subject application as published, as well as Working Examples 6 and 7. Claims 6 and 10 are currently cancelled. Claims 7, 16, and 19 were previously cancelled. As such, no new matter is introduced via the instant Amendment. No claims are withdrawn.

Claims 1, 4, and 22-23 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Publ. Pat. Appln. No. 2007/0099007 to Benayoun et al. (“Benayoun”). In view of the Applicants’ amendment of the independent claims of the subject application, as well as the reasons set forth below, the Examiner’s rejection is respectfully overcome. Notably, while the Examiner relied on Benayoun in a rejection under § 102(e), the Examiner noted that the Examiner had not been able to locate the corresponding International publication to which Benayoun claims priority, which would, in the Examiner’s estimation, ostensibly qualify as prior art under § 102(b). The Applicants respectfully note that the International publication to which Benayoun claims priority is WO01/60892.

Notably, while the Examiner rejected claims 1 and 4 of the subject application under § 102(e) over Benayoun, the Examiner correlated the polyvinyl alcohol (PVA) of Benayoun to the instantly claimed water-soluble polymer and the instantly claimed emulsifying agent, i.e., the Examiner correlated one component of Benayoun to two of the expressly claimed components of claims 1 and 4. While the Applicants make no concession as to the propriety of the Examiner's rejection over Benayoun, the Applicants have amended claims 1 and 4 via the instant Amendment to recite that the water-soluble polymer comprises sodium salt of an acrylic acid polymer to expedite allowance of the subject application. To this end, the Applicants note that claim 5 recited, inter alia, that the water-soluble polymer comprises sodium salt of an acrylic acid polymer, and claim 5 was indicated as being allowable by the Examiner. The Applicants also wish to note that the claim terminology "acrylic acid polymer" is a translation from the Japanese language of the priority document of the subject application for Japanese terminology meaning "an acrylic acid type polymer or an acrylic acid series polymer." As such, the Applicants respectfully note for the record that the claim terminology "acrylic acid polymer" of claims 1 and 4 encompasses polyacrylic acid, polymethacrylic acid, polyacrylic acid/methacrylic acid, and other acrylic acid polymers, as expressly defined in paragraph [0023] of the subject application as published.

Relative to claims 2 and 3, the Applicants note that these claims were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. To this end, the Applicants have amended claims 2 and 3 such that these claims are in independent form and no longer dependent from a rejected claim, i.e., claim 1. The Applicants

also note that claim 11 of the subject application was indicated as being allowable by the Examiner. The Applicants amended claim 11 such that claim 11 no longer incorporates the subject matter of claim 1, but rather the subject matter of claim 1 prior to the instant Amendment is now expressly recited in claim 11 itself. Similarly, the Applicants also note that claim 20 of the subject application was indicated as being allowable by the Examiner. The Applicants amended claim 20 such that claim 20 no longer incorporates the subject matter of claim 4, but rather the subject matter of claim 4 prior to the instant Amendment is now expressly recited in claim 20 itself.

The Applicants also recognize that the Examiner indicated that there was, in the Examiner's estimation, no patentable difference between claims 1 and 4. To this end, the Applicants note that claim 1 recites component (C) as a discrete component, whereas claim 4 includes component (C) in component (B2), which is an aqueous solution of a water soluble polymer and the emulsifying agent of component (C). The Applicants have amended claim 4 to further clarify this distinction between claims 1 and 4.

In view of the foregoing, the Applicants respectfully submit that claims 1-5, 8, 9, 11-15, 17, 18, and 20-28 are both novel and non-obvious over the prior art, including over Benayoun. As such, the Applicants submit that the claims are in condition for allowance, and such allowance is respectfully requested.

This Amendment is submitted timely; thus, it is believed that no additional fees are due. However, if necessary, the Commissioner is authorized to charge Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys PLLC for any additional fees or to credit the account for any overpayment.

Respectfully submitted,

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